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JRP  
9/10/94

LIMBACH & LIMBACH  
2001 Ferry Building  
San Francisco, CA 94111  
(415) 433-4150

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. BRKS-00101  
Anticipated Classification  
of this Application:  
Class:  
Subclass:

Prior Application:  
Examiner: R. Henley III  
Art Unit: 1205

FILE WRAPPER CONTINUING APPLICATION (FWC) - 37 CFR 1.62

Commissioner of Patents and Trademarks  
Box FWC  
Washington, D.C. 20231

Sir:

- I. This is a request for filing a  
☒ continuation  
☐ divisional application  
☐ continuation-in-part  
— attached is an amendment for added subject matter of pending prior application Serial No. filed  
on of for  
☒ of pending prior application Serial No. 07/471,287 filed on 01/26/90 of GEORGE A. BROOKS for METHOD  
AND COMPOSITION FOR NUTRITIONAL SUPPLEMENTATION DURING EXERCISE AND RECOVERY.

CERTIFICATION UNDER 37 CFR §1.10

I hereby certify that this New Application and the documents referred to as enclosed herein are being deposited with the United States Postal Service on this date 7-25-94, in an envelope bearing "Express Mail Post Office To Addressee" Mailing Label Number TB396606639US addressed to: Honorable Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUSAN OZANNE

(Name of person mailing paper)

Susan Ozanne

Signature

1. Title (as originally filed and as last amended): METHOD AND COMPOSITION FOR NUTRITIONAL SUPPLEMENTATION DURING EXERCISE AND RECOVERY
2. Name of applicant(s) (as originally filed and as last amended) and current correspondence address of applicant(s)

10 GEORGE A. BROOKS

| NAME OF INVENTOR            | NAME OF INVENTOR | NAME OF INVENTOR | NAME OF INVENTOR |
|-----------------------------|------------------|------------------|------------------|
| <u>1415 Richmond Street</u> |                  |                  |                  |
| Address                     | Address          | Address          | Address          |
| <u>El Cerrito, CA 94530</u> |                  |                  |                  |
| City, State ZIP             | City, State ZIP  | City, State ZIP  | City, State ZIP  |

The above-identified application in which no payment of issue fee, abandonment of, or termination of proceedings has occurred, is hereby expressly abandoned as of the filing date of this new application. Please use all the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application.

It is understood that secrecy under 35 U.S.C. 122 is hereby waived to the extent that if information or access is available to any one of the applications in the file wrapper of a 37 CFR 1.62 application, be it either this application or a prior application in the same file wrapper, the PTO may provide similar information or access to all the other applications in the same file wrapper.

II. INVENTORSHIP STATEMENT

1. ☒ This application discloses and claims only subject matter disclosed in the prior application whose particulars are set out above and the inventor(s) in this application are
- C

☒ the same  
☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted:

2. ☐ This application discloses and claims additional disclosure by amendment and a new declaration or oath is being filed. With respect to the prior application whose particulars are set out above the inventor(s) in this application are

☐ the same  
☐ add the following additional inventor(s):

3. ☒ The inventorship for all the claims in this application are

☒ the same as in pending prior application Serial No. 07/471,287, filed on 1/26/90.  
☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

### III. DECLARATION OR OATH

1. Continuation or divisional

☒ none required

2. Continuation-in-part

☐ attached  
☐ executed by (check all applicable items)  
☐ inventor(s).  
☐ legal representative of inventor(s) 37 CFR 1.42 or 1.43.  
☐ joint inventor or person showing a proprietary interest for inventor who refused to sign or cannot be reached. 37 CFR 1.47;  
☐ This is the petition required by 37 CFR 1.47 and the statement required by 37 CFR 1.47 is also attached. See item VI below for fee.  
☐ not attached.

Application is made by a person authorized under 37 CFR 1.41(c) on behalf of all of the above named applicant(s). The declaration or oath, along with the surcharge required by 37 CFR 1.16(e) can be filed subsequently.

☐ showing that the filing is authorized. (Not required unless called into question. 37 CFR 1.41(d)).

### IV. FEE CALCULATION - AMENDMENTS

☒ The fees to be charged are to be based on the number of claims remaining as a result of the  
☒ attached preliminary amendment.  
☐ the unentered amendment filed under 37 CFR 1.116 in the prior application, which is now repeated.  
☐ the claims as on file in the prior application.

### CLAIMS AS FILED

|  | Number filed | Number extra | Rate      | Basic Fee<br>\$710 |
|--|--------------|--------------|-----------|--------------------|
| Total Claims   | 24 - 20 =    | * 4          | X \$22.00 | 88                 |
| Independent Claims   | 2 - 3 =      | * 0          | X \$74.00 | 0                  |
| <input type="checkbox"/> Multiple dependent claim(s), if any |              |              | \$230.00  |                    |

☐ The fee for extra claims is not being paid at this time.

Filing Fee Calculation . . . . . \$798.00

### V. SMALL ENTITY STATEMENT

☐ A verified statement that this is a filing by a small entity is attached.

☒ The small entity statement was filed in the parent application Serial No. 07/471,287 filed on 01/26/90 and this status is still proper and its benefit under 37 CFR 1.28(a) is hereby claimed.

50% Filing Fee Reduction (if applicable) . . . \$399.00

VI. FEE PAYMENT BEING MADE AT THIS TIME

Not attached

- ☐ No filing fee is submitted. (This and the surcharge required by 37 CFR 1.16(e) can be paid subsequently.)

Attached

- ☒ filing fee \$399.00  
☐ recording assignment (\$40.00; 37 CFR 1.21(h)(i). See item XII below. \$  
☐ petition fee for filing by other than all the inventors or person not the inventor where inventor refused to sign or cannot be reached (\$130.00; 37 CFR 1.47 and 1.17(h)) \$  
☐ processing and retention fee (\$130.00; 37 CFR 1.53(d) and 1.21(1)) \$

TOTAL FEES ENCLOSED . . . . . \$399.00

VII. METHOD OF PAYMENT OF FEES

- ☒ attached is check in the amount of \$399.00  
☐ charge Account No. 12-1420 in the amount of \$ . A duplicate of this request is attached.

VIII. AUTHORIZATION TO CHARGE ADDITIONAL FEES

- ☒ The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the entire pendency of this application to Account No. 12-1420. The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 12-1420. A duplicate copy of this sheet is enclosed.

- ☒ 37 CFR 1.16 (filing fees)  
☒ 37 CFR 1.16 (presentation of extra claims)  
☐ 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)  
☒ 37 CFR 1.17 (application processing fees)  
☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b)).

IX. INSTRUCTIONS AS TO OVERPAYMENT

- ☐ credit Account No. 12-1420  
☒ refund

X. PRIORITY - 35 U.S.C. 119

- ☐ Priority of application Serial No. filed on in is claimed under

- ☐ The certified copy has been filed on in prior application Serial No. filed on .  
☐ certified copy will follow.

XI. RELATE BACK - 35 U.S.C. 120

- ☒ Amend the specification by deleting any existing reference to related applications by inserting before the first line the sentence:

This is a

- ☒ continuation  
☐ divisional application  
☐ continuation-in-part

of ~~co-pending~~ application Serial No. 07/471,287 filed on 01/26/90

*now abandoned*

XII. ASSIGNMENT

- ☐ The prior application is assigned of record to ;  
Assignment recorded in PTO on , Reel , Frame .  
☐ An assignment of the invention to is attached:

XIII. POWER OF ATTORNEY

The power of attorney in the prior application is to W. Patrick Bengtsson, Reg. No. 32,456

- ☒ The power appears in the original papers in the prior application.  
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☒ Address all future communications to:

Limbach & Limbach  
Attn: W. Patrick Bengtsson  
2001 Ferry Building  
San Francisco, CA 94111  
(415)-433-4150

XIV. MAINTENANCE OF COPENDENCY OF PRIOR APPLICATION

(This item must be completed and the necessary papers filed in the prior application if the period set in the prior application has run).

☐ A petition, fee and response has been filed to extend the term in the pending prior application until

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XV. CONDITIONAL PETITIONS FOR EXTENSION OF TIME IN PRIOR APPLICATION

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XVI. ABANDONMENT OF PRIOR APPLICATION

☒ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application copending with said prior application.

By: Patrick Bengtson

Name: W. Patrick Bengtson

Registration No. 32,456

Attorneys for Applicant

Dated July 25, 1997  
2001 Ferry Building

San Francisco, CA 94111



LIMBACH & LIMBACH  
2001 Ferry Building  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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By: 

Name: W. Patrick Bengtsson

Registration No. 32,456

Attorneys for Applicant

Dated July 25, 1994

2001 Ferry Building  
San Francisco, CA 94111





-1-

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                             |   |                           |
|-----------------------------|---|---------------------------|
| In re Application of        | ) | Group Art Unit: 1205      |
| George A. Brooks            | ) | Examiner: R. Henley III   |
| Serial No. 07/471,287       | ) | CONDITIONAL REQUEST FOR   |
| Filed: 01/26/90             | ) | A ONE MONTH EXTENSION     |
| For: METHOD AND COMPOSITION | ) | <u>OF TIME TO RESPOND</u> |
| FOR NUTRITIONAL             | ) |                           |
| SUPPLEMENTATION DURING      | ) | 2001 Ferry Building       |
| EXERCISE AND RECOVERY       | ) | San Francisco, CA 94111   |
|                             | ) | (415) 433-4150            |

Honorable Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Sir:

A Decision on a renewed petition under 37 C.F.R. 1.137 (b) was mailed to Applicant's Attorney on May 25, 1994. The 2-month period for filing an Appeal Brief (or File Wrapper Continuation application) ran from the date of the petition, May 25, 1994.

Applicants hereby petition for a one (1) month extension of time **if necessary** in order that the above-referenced application remain pending to file a File Wrapper Continuation application.

The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 12-1420. A duplicate copy of this sheet is enclosed.

Respectfully submitted,  
LIMBACH & LIMBACH

Dated: 7-25-94

By Michael R. Ward  
Michael R. Ward  
Reg. No. P-38,651

(Atty Docket No. BRKX-00100 )



EXPRESS MAIL NO. TB396606639US

PATENT

-1-

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                      |   |                         |
|----------------------|---|-------------------------|
| In re Application of | ) | Group Art Unit:         |
| George A. Brooks     | ) | Examiner:               |
| Serial No. FWC of    | ) |                         |
| 07/471,287           | ) | <u>COMMUNICATION</u>    |
| Filed: Herewith      | ) |                         |
| For: METHOD AND      | ) | 2001 Ferry Building     |
| COMPOSITION FOR      | ) | San Francisco, CA 94111 |
| NUTRITIONAL          | ) | (415) 433-4150          |
| SUPPLEMENTATION      | ) |                         |
| DURING EXERCISE AND  | ) |                         |
| RECOVERY             | ) |                         |

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Sir:

As requested by the Office of Petitions on the  
Decision on the renewed petition under 37 C.F.R.

§ 1.137(b) mailed May 25, 1994 for:

Application of George A. Brooks  
Serial No. 07/471,287  
Filed: January 26, 1990

Applicants submit the following:

- (1) A copy of the Decision on the renewed  
petition; and
- (2) A copy of the Terminal Disclaimer filed on  
May 9, 1994 in Application Serial No.  
07/471,287.

PATENT


-2-

Applicant respectfully requests that the terminal disclaimer be made of record in the continuing application filed herewith.

Respectfully submitted,

LIMBACH & LIMBACH

Dated: July 25, 1984

By:   
W. Patrick Bengtsson  
Reg. No. 32,456

2001 Ferry Building  
San Francisco, CA 94111  
(415) 433-4150

Attorneys for Applicant

Atty. Docket No. BRKX-00101

RECEIVED  
MAY 31 1994  
LIMBACH & LIMBACH



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER OF  
PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
FMH.5

Paper No. 23

GCL  
LIMBACH, LIMBACH & SUTTON  
ATTN: ~~JAMES C. WESEMAN~~  
2001 FERRY BUILDING  
SAN FRANCISCO, CA 94111

COPY MAILED

MAY 25 1994

OFFICE OF PETITIONS  
A/C PATENTS

In re Application of  
George A. Brooks  
Serial No. 07/471,287  
Filed: January 26, 1990  
Attorney Docket No. STIM1000

ON PETITION

*Appeal Brief Due 7/25/94*  
*ca*  
*R*

This is a decision on the renewed petition under 37 CFR 1.137(b),  
filed May 2, 1994, to revive the above-identified application.

The petition is granted.

**THE 2-MONTH PERIOD FOR FILING THE APPEAL BRIEF, IN TRIPLICATE,  
ACCOMPANIED BY THE FEE REQUIRED BY LAW, RUNS FROM THE DATE OF THIS  
DECISION.**

The Terminal Disclaimer filed on May 9, 1994 has been accepted.

Any continuing application filed from this application must contain  
a copy of the Terminal Disclaimer. The copy of the Terminal  
Disclaimer must be filed with a cover letter requesting the  
terminal disclaimer be recorded on the continuing application. A  
copy of this decision should be attached to the cover letter.

The file is being forwarded to Group 1200 via the Certificate of  
Correction Branch for processing the Terminal Disclaimer.

*Frances Hicks*  
Frances Hicks  
Office of Petitions  
Office of the Assistant Commissioner  
for Patents